

**HOUSE RESOLUTION NO. 16**

(By Delegates Cowles, Duke, Ellington, Gearheart,  
Householder, Ireland, J. Miller, O'Neal,  
Overington, Savilla, Sigler and Snuffer)

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6 Requesting an investigation by the State Auditor, the Legislative  
7 Auditor and the Commission on Special Investigations into the  
8 activities of officers of the Senate in connection with the  
9 performance of their constitutional duties arising out of the  
10 vacancy in the office of Governor.

11 WHEREAS, On November 15, 2010, a vacancy in the office of  
12 Governor occurred as a result of the resignation of former Governor  
13 Joe Manchin, III, to assume the office of United States Senate; and

14 WHEREAS, Article VII, Section 16 of the West Virginia  
15 Constitution provides that the President of the Senate shall act as  
16 Governor during such vacancy; and

17 WHEREAS, The West Virginia Supreme Court of Appeals has  
18 recently ruled that a person shall act as Governor for only such  
19 time as is reasonably necessary to elect a new Governor, which  
20 period shall not exceed one year; and

21 WHEREAS, During such period as the President of the Senate acts  
22 as Governor, he does not cease being President of the Senate, but  
23 retains that constitutional office; and

24 WHEREAS, In compliance with the recent ruling of the West  
25 Virginia Supreme Court of Appeals, the President of the Senate

1 issued a proclamation on January 21, 2011, scheduling a new  
2 statewide election to be conducted on October 4, 2011, for the  
3 purpose of electing a person to fill the vacancy in the office of  
4 Governor for the remainder of the unexpired term; and

5       WHEREAS, Since the vacancy in the office of Governor began, the  
6 President of the Senate has moved himself and his family into the  
7 Governor's Mansion, occupied the offices in the Capitol reserved  
8 for the Governor, collected the salary appropriated for the  
9 Governor which is substantially in excess of the salary  
10 appropriated for the President of the Senate, identified himself  
11 publicly as the Governor of West Virginia in official  
12 communications and on taxpayer paid stationary, Christmas cards,  
13 and other publications, and has failed to perform many of the  
14 duties that are assigned to the President of the Senate; and

15       WHEREAS, The failure of the President of the Senate to appear  
16 regularly in the Senate or to attend to all of the statutory duties  
17 assigned to that office caused confusion and concern in the Senate  
18 that ultimately led to an amendment of the Senate Rules that  
19 provided for the election of an "acting President"; and

20       WHEREAS, The use of both an "acting President" and a President  
21 Pro Tempore has also created confusion in the respective duties and  
22 powers of the Senate officers, but has burdened the taxpayers with  
23 the additional expense of a greater salary for the person acting as  
24 "acting President"; and

1       WHEREAS, The lack of clarity in the leadership in the Senate  
2 has also caused concern regarding the validity of legislation  
3 passed by the Senate and in the joint relations between the House  
4 of Delegates and the Senate; and

5       WHEREAS, Collecting the larger salary appropriated for the  
6 Governor could result in the President of the Senate receiving a  
7 substantially larger retirement benefit than he would have if he  
8 had received only the salary appropriated for the office of  
9 President of the Senate; therefore, be it

10       *Resolved by the House of Delegates of West Virginia:*

11       That the State Auditor, the Legislative Auditor and the  
12 Commission on Special Investigations cooperate in conducting an  
13 investigation into the activities of officers of the Senate in  
14 connection with the performance of their constitutional duties  
15 arising out of the vacancy in the office of Governor and report to  
16 both Houses of the Legislature regarding the propriety of those  
17 activities, the total cost to the taxpayers of West Virginia and  
18 what, if any, adverse consequences may arise from those activities  
19 in the future; and, be it

20       *Further Resolved,* That the Clerk of the House of Delegates  
21 forward a certified copy of this resolution to the President of the  
22 Senate, the State Auditor, the Legislative Auditor and the  
23 Commission on Special Investigations.